



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R07-OAR-2019-0332; FRL-9998-89-Region 7]**

**Approval of Iowa and Nebraska Air Quality Implementation Plans;  
Infrastructure SIP Requirements for the 2012 Annual Fine  
Particulate Matter (PM<sub>2.5</sub>) National Ambient Air Quality Standard  
Interstate Transport**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving elements of State Implementation Plan (SIP) submissions from Iowa Department of Natural Resources (IDNR) and Nebraska Department of Environmental Quality (NDEQ) for the 2012 Annual Fine Particulate Matter (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS). The Clean Air Act (CAA) requires that each state adopt and submit a SIP that provides for the implementation, maintenance, and enforcement of each NAAQS promulgated by the EPA, commonly referred to as "infrastructure" SIPs. In this action the EPA is taking final action to approve the interstate transportation obligations of the State's 2012 PM<sub>2.5</sub> NAAQS infrastructure SIP submittals.

**DATES:** This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2019-0332. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** Lachala Kemp, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551-7214, email address [kemp.lachala@epa.gov](mailto:kemp.lachala@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," and "our" refer to EPA. This section provides additional information by addressing the following:

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## **I. What is Being Addressed in this Document?**

This final rulemaking approves certain elements of the infrastructure SIP submissions from Iowa received on December 22, 2015, and from Nebraska received on February 22, 2016. Specifically, the EPA is approving the following elements of section 110(a)(2)(D)(i)(I) - significant contribution to nonattainment (prong 1), and interfering with maintenance of the NAAQS (prong 2). The background for this action is discussed in detail in EPA's proposed rulemaking published in the **Federal Register** on June 26, 2019 (84 FR 30062).

## **II. Have the Requirements for Approval of a SIP Submission Been Met?**

The state's submissions have met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The state of Iowa held a 30-day comment period, and a public hearing on November 16, 2015. No oral or written comments were received. The state of Nebraska held a public comment period from November 23, 2015, to December 29, 2015. The state received no comments during the public comment period. A public hearing was held on December 29, 2015. The submissions satisfied the completeness criteria of 40 CFR part 51, appendix V.

### **III. The EPA's Response to Comments**

The public comment period on EPA's proposed rule opened June 26, 2019, the date of its publication in the **Federal Register** and closed on July 26, 2019. During this period, the EPA received no comments on the action.

### **IV. What Action is the EPA Taking?**

The EPA is taking final action to approve the following elements of Iowa's December 22, 2015, and Nebraska's February 22, 2016, infrastructure SIP submissions: section 110(a)(2)(D)(i)(I) - significant contribution to nonattainment (prong 1), and interfering with maintenance of the NAAQS (prong 2) as applicable to the 2012 Annual PM<sub>2.5</sub> NAAQS.

### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United

States prior to publication of the rule in the **Federal Register**.

A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations,  
Nitrogen dioxide, Particulate matter, Reporting and  
recordkeeping requirements, Sulfur dioxides.

Dated: \_\_\_\_\_

August 26, 2019.

\_\_\_\_\_

Edward Chu,  
Acting Regional Administrator,  
Region 7.



For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as set forth below:

**PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart-Q Iowa**

2. In §52.820, the table in paragraph (e) is amended by adding entry "(51)" to read as follows:

**§52.820 Identification of plan.**

\* \* \* \* \*

(e) \*\*\*

**EPA-APPROVED IOWA NONREGULATORY PROVISIONS**

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA Approval date	Explanation
* * * * *				
(51) Section 110(a)(2)(D)(i)(I) -significant contribution to nonattainment (prong 1), and interfering with maintenance of the NAAQS (prong 2)(Interstate Transport)Infrastructure Requirements for the 2012 Annual Fine Particulate Matter (PM <sub>2.5</sub> ) NAAQS.	Statewide	12/15/2015	[insert date of publication in the Federal Register], [insert Federal Register citation]	This action approves the following CAA elements: 110(a)(1) and 110(a)(2)(D)(i)(I) - prongs 1 and 2 [EPA-R07-OAR-2019-0332; FRL-9998-89-Region 7].

**Subpart CC-Nebraska**

3. In §52.1420, the table in paragraph (e) is amended by adding entry “(36)” to read as follows:

**§52.1420 Identification of plan.**

\* \* \* \* \*

(e) \*\*\*

**EPA-APPROVED NEBRASKA NONREGULATORY PROVISIONS**

<b>Name of nonregulatory SIP provision</b>	<b>Applicable geographic or nonattainment area</b>	<b>State submittal date</b>	<b>EPA approval date</b>	<b>Explanation</b>
* * * * *				
(36) Section 110(a)(2)(D)(i)(I) -significant contribution to nonattainment (prong 1), and interfering with maintenance of the NAAQS (prong 2) (Interstate Transport) Infrastructure Requirements for the 2012 Annual Fine Particulate Matter (PM <sub>2.5</sub> ) NAAQS.	Statewide	2/22/2016	[insert date of publication in the Federal Register], [insert Federal Register citation]	This action approves the following CAA elements: 110(a)(1) and 110(a)(2)(D)(i)(I) - prongs 1 and 2 [EPA-R07-OAR-2019-0332; FRL-9998-89-Region 7].

[FR Doc. 2019-19071 Filed: 9/5/2019 8:45 am; Publication Date: 9/6/2019]